

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CURTIS L. WARREN,

Plaintiff,

vs.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

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8:06cv333

ORDER OF DISMISSAL

This matter is before the court on defendant's motion to dismiss the complaint, Filing No. 11. Plaintiff has not responded to the motion to dismiss. Plaintiff filed for Social Security disability benefits, and the administrative law judge held a hearing on October 20, 2005, to hear plaintiff's disability case. On April 6, 2006, plaintiff filed this lawsuit. Thereafter, on May 24, 2006, the administrative law judge issued a decision unfavorable to the plaintiff. On July 18, 2006, the plaintiff filed his request for review. The Social Security Administration cannot proceed with that review while this case is pending.

This court has jurisdiction to review a hearing decision only after that decision is "final." 42 U.S.C. § 405(g). The court finds that the plaintiff filed this case prior to a decision by the administrative law judge and prior to exhausting his appeal rights. Therefore, there is no final decision and this court does not have jurisdiction.

THEREFORE, IT IS ORDERED that defendant's motion to dismiss, Filing No. 11, is granted. This case is dismissed without prejudice.

DATED this 3rd day of October, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
Chief U.S. District Judge